

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number <b>EDWARD A. MENDOZA (SB# 101079)</b> <b>LUCE FORWARD HAMILTON &amp; SCRIPPS, LLP</b> 777 S. Figueroa St., Suite 3600 Los Angeles, CA 90017 Tel: (213) 892-4992 FAX: (213)892-7731	FOR COURT USE ONLY   2002 JAN 28 PM 3:43 CLERK U.S. BANCY. COURT CENT. DIST. OF CALIF. BY
<b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA</b>	
In re: <b>CIMM'S INCORPORATED</b> , a California corporation Debtor and Debtor-in-Possession  Debtor(s).	CASE NO.: LA01-32272-ES LA01-32274-ES LA01-32277-ES LA01-32279-ES LA01-32280-ES LA01-32281-ES LA01-32283-ES

### NOTICE OF SALE OF ESTATE PROPERTY

<b>Sale Date:</b> March 5, 2002	<b>Time:</b> 10:30 a.m.
<b>Location:</b> Courtroom 1645, 255 Temple St., Los Angeles, CA 90012	

Type of Sale: ☒ Public    ☐ Private    Last date to file objections: February 19, 2002

Description of Property to be Sold: Debtor's Leasehold of real property located at  
2186 Kalakaua Avenue, Honolulu, Hawaii

Terms and Conditions of Sale: SEE ATTACHED

Proposed Sale Price: \$4 million

Overbid Procedure (If Any): SEE ATTACHED

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

LUCE FORWARD HAMILTON & SCRIPPS LLP  
777 S. Figueroa, #3600, Los Angeles, CA 90017  
Edward A. Mendoza - PH: 213/892-4961 FAX: 213/892-7731  
Margaret Mann - PH: 619/236-1414 FAX: 619/232-8311  
600 West Broadway, #2600, San Diego, CA 92101

Date: January 28, 2002

## SALE TERMS

A summary of the proposed terms of the sale of the Leasehold is set forth below:

- A. Hawaii Cimm's shall assume the Lease and assign it to the successful bidder (the "Sale").
- B. The terms of the purchase price for the Leasehold shall be at least \$4 million.
- C. The Sale will be "as is, where is," with no representations or warranties being made by the Debtor. The buyer shall acknowledge that the Debtor has not made any statements, representations or warranties, written or oral, expressed or implied, with respect to the physical, legal, economic or other condition of the Leasehold or the suitability of the Leasehold for buyer's purposes, and buyer shall acknowledge that the buyer is familiar with the Leasehold, and has conducted such investigation of the Leasehold as it has deemed necessary and appropriate. Buyer shall acknowledge and agree that buyer shall acquire the Leasehold in its "as-is, where is" condition, and shall assume all risk with respect to any defects in the condition of the subject property, including any latent defects, hazardous or toxic waste, lead paint, safety or building code violation or deficiencies, and any restrictions, obligations, benefits and burdens whatsoever regarding the use of the Leasehold and buyer shall waive all claims against Debtor with respect thereto and shall indemnify, defend and hold Debtor harmless from and against all claims, liabilities, losses, damages, costs, including reasonable attorneys' fee, with respect thereto, arising or asserted on or after the Sale.
- D. Buyer will be responsible for its own attorneys' fees and costs in connection with the Sale.
- E. The Debtor is unaware of any liens against the Leasehold and any such purported liens would be disputed. The Sale will be free and clear of all liens, claims, encumbrances, and other interests, of any kind and nature whatsoever. Any proper liens, claims, encumbrance and other interests will attach to the Sale proceeds with the same validity, nature, extent and priority that they enjoyed immediately before the Sale.
- F. The proceeds of the Sale will be used to fund the continued operations of the Debtor.

## OVERBID PROCEDURES

Clearly articulating in advance the overbid procedures will assist the Court and all involved parties in expediting the Sale and overbid process. These procedures are designed to create a competitive auction and to avoid the delay commonly associated with privately negotiated commercial real estate transactions. This Sale is subject to overbids under the specific procedures set forth below ("Overbid Procedures"):

### A. Negotiation of Initial Bid

The Debtor has been negotiating with interested parties, and anticipates that it will secure shortly the best and highest initial bid (the "Initial Bid"). The Debtor intends to serve a supplemental notice to potential overbidders and parties in interest specifying the Initial Bid no later 24 days before the hearing on this Motion.

### B. Solicitation of Overbids and Pre-Hearing Overbidding Procedure.

1. In order to solicit overbids, in addition to noticing the Motion and serving it on the service list, the Debtor intends to take the following additional steps to solicit overbids: the real estate brokerage firm of Kahawai Development Company, Ltd. will prepare a list of potentially interested parties who may be solicited. These parties will be sent notice of the hearing, the Initial Bid, and an appropriate marketing package. In addition, some prospects may be contacted by telephone as a follow up. The Debtor, assisted by its professionals, will also attempt to identify suitable advertising sources considering the costs and limited time available.

2. Any party wishing to submit a bid prior to the sale hearing will need to submit to the Debtor's counsel within 10 days before the hearing on this Motion the following items:

- (a) a written bid greater and better than the Initial Bid;
- (b) in appropriate cases where unknown, information regarding the identity and background information concerning the bidder and its principals; and
- (c) in appropriate cases where unknown, information concerning the financial capacity to perform and net worth of the bidder or bidding group.

3. The Initial Bid and all prospective overbidders who have qualified according to the foregoing process, shall be referred to collectively as "Qualified Bidders".

C. Procedures for Sale and Overbidding at Sale Hearing.

1. No later than 5 days before the hearing on this Motion, the Debtor shall file with the Court and serve on all Qualifying Bidders and the Special Notice List, copies of all of the Qualifying Bids, and its determination of the Baseline Bid. The Baseline Bid shall be the Qualifying Bid that the Debtor determines is the highest and best bid.

2. At the hearing on this Motion, the Debtor shall request Court approval of the Baseline Bid, subject to the overbid procedures and request the Court to entertain overbids.

3. The Court will entertain further overbidding by Qualified Bidders at the hearing. All overbid increments at the hearing shall be in the form of cash additions. The first overbid at the hearing shall be required to have an increase in the cash component sufficient to create a \$25,000 overbid over the bid selected by the Court as the highest pre-hearing bid at the hearing. Subsequent overbids shall require additional cash increments of at least \$10,000 over the immediately prior overbid, until no further Qualifying Overbids are received, and the highest Qualifying Overbid is declared and confirmed the Successful High Bidder at the auction.

4. The Debtor may ask the Court to confirm one or more backup bids in the event that the Successful High Bidder for any reason fails to promptly close. The Successful High Bidder shall be required immediately at the Court hearing by cashier's or certified check, to make a good faith deposit of \$50,000. If an overbidder is tendered the opportunity to go forward due to the failure of the Successful High Bidder (or a prior backup offer) to close, the backup bidder must submit a \$50,000 deposit within five (5) business days of receiving written notice of the opportunity to go forward with the backup bid.

5. The sale to the Successful High Bidder shall close no later than fifteen (15) business days after the entry of the order approving the sale, unless a written extension is agreed to by the Debtor and the Successful High Bidder.